

Remarks

Claims 1 – 20 were pending and stand rejected. Claim 1 has been amended. Claims 2 – 5, 7 – 10, 12 – 15, and 17 – 20 have been cancelled. New claims 21 – 26 have been added. Support for the amendments can be found at page 3, lines 3 -7, and in the Examples of the specification. Reconsideration is respectfully requested in view of the above amendments and the following remarks.

Claims 1, 2, and 4 – 20 stand rejected under 35 USC sec. 102 (b)

The Examiner has rejected claims 1, 2, and 4 – 20 under 35 USC sec. 102 (b) as being anticipated by Arthur. Arthur discloses a composition for control of parasitic insects and acarids, comprising a combination of pyrethroids and chloronicotinyl compounds. The rejection refers to Table 1, (3) and Table 2 to show efficacy [of the disclosed compositions] for household insects and fleas when treated at its habitat, dog. It is also asserted that “preparations are at 0.1% (page 11, top)” and that other pyrethroids can be used as are other nicotinoids. Applicants submit that Arthur fails to disclose or suggest the presently claimed invention. Specifically, the claimed invention comprises, among other things, bifenthrin being present in a weight percent of from 0.001% to 0.06%. This is clearly outside the pyrethroid weight range disclosed by Arthur, as pointed out by the Examiner. Moreover, although Arthur discloses a list of pyrethroids that can be used, bifenthrin is not disclosed in such list of potential pyrethroids. Furthermore, claim 1 has been further amended to claim that the second insecticide in the claimed composition is present in a weight percent ranging from 0.001% to 0.20% and is selected from the group consisting of imidacloprid, thiamethoxam, and clothianidin. Applicants submit that Arthur fails to disclose or suggest this claimed combination of materials. Accordingly, applicants request that this rejection be withdrawn.

Claims 1 – 20 stand rejected under 35 USC sec. 102 (a & e), or under 35 USC sec. 103 (a)

The Examiner has rejected claims 1 – 20 as being anticipated by, or in the alternative, as obvious in view of Asrar et al. Asrar et al is directed to a method of preventing damage to seeds comprising treating such seeds with a composition comprising a pyrethroid and at least one other insecticide.

Preliminarily, Applicants note that Asrar fails to explicitly teach an insecticidal composition comprising a mixture of from 0.001% to 0.06% by weight bifenthrin and from 0.001% to 0.20% by weight of a second insecticide selected from the group consisting of imidacloprid, thiamethoxan, and clothianidin. The claims have been amended to specifically claim this preferred embodiment of the invention.

Asrar et al alleges that a great number of combinations of pyrethroid/non-pyrethroid insecticide combinations are synergistic for a great number of insect genera over a large ratio of combinations. Applicants submit that the very data presented by Asrar et al shows the unpredictability of the art as well as the complete lack of supporting data for such allegation.

Specifically, Asrar et al allege that each of the 825 combinations listed in Table 1 will exhibit synergistic activity against the approximately 150 listed exemplary genera of insects listed at weight ratios of from 1000:1 to 1:1000. However, it is noted that the only data provided by Asrar et al (in Table 3) shows that many of the mixtures of the **sole** mixture exemplified (tefluthrin + acephate) – all of which mixtures should be synergistic according the Asrar et al's shotgun disclosure – **do not exhibit synergy** when tested against the **sole** insect species tested (black cutworm).

Thus, applicants respectfully submit that Asrar et al's assertion that the 825 combinations in the weight ratios disclosed does not support an assertion of "synergy", but instead supports the fact that combining two or more of the 825 disclosed insecticides will result, at best, in unpredictable results.

The claimed insecticidal compositions provide surprising, synergistic results, as can be seen in the supporting Examples in the application. Applicants respectfully request that the Examiner consider the data set forth in the Examples. The Examples clearly support the assertion that the presently claimed compositions provide unexpected, synergistic results that provide clear evidence of patentability of the instant claims. Accordingly, applicants respectfully request that this rejection be withdrawn.

Claims 1 – 20 stand rejected under 35 USC sec. 103 (a)

The Examiner has rejected claims 1 – 20 as being obvious in view of Sembo et al. Sembo et al. discloses pesticidal aerosol compositions comprising a propellant, 1-methyl-2-nitro-3-[(3-tetrahydrofuryl)methyl]guanidine and N-methyl-2-pyrrolidone. Although Sembo et al. mention in passing that the pesticidal aerosol compositions can additionally include pyrethroids and neonicotinoid compounds (specifically bifenthrin and thiamethoxam) there is no mention of the criticality of the weight % of such compounds to be used in the aerosol compositions. Indeed, Sembo et al. provide no suggestion as to any amount of such compounds to be used in the disclosed aerosol compositions. Thus, applicants submit that Sembo et al. fail to disclose or suggest the claimed invention. Accordingly, applicants respectfully request that this rejection be withdrawn.

As all of the outstanding rejections have been addressed and overcome, applicants earnestly request issuance of a prompt and favorable action on the merits.

Should the Examiner have any questions, the Examiner is invited to contact applicants' undersigned representative.

Respectfully submitted,

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